

MINUTES OF THE BOARD OF APPEALS
TOWN OF ANDOVER, MASSACHUSETTS

Memorial Hall Library, Elm Sq., Andover

Amended April 5, 2007

APPROVED 7/5/07

There were present: Anderson, McDonough, Batchelder, Reilly, Jeton. Meeting opened at 7:07pm.

PETITION NO.: 3695

PETITIONER: David Brown and Patricia Fleming

PREMISES AFFECTED: 31 Glenwood Road

MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

The petitioner, David Brown is a member of the Zoning Board of Appeals; after his presentation to the Board, he left the premises. The petitioner represented himself in the public hearing with a request for a variance and/or special permit and as a party aggrieved.

The petitioner originally made application to the Board to construct a 2-foot extension of the existing kitchen, a 6 foot by 8 foot front entry, a 8 foot by 9 foot front porch and a 16 foot by 18 foot 1½-story bedroom addition at the northeast corner of the existing house. The application was made at the direction of the Inspector of Buildings, Mrs. Gilmore, when she denied the petitioner a building permit for the aforementioned additions, documented in her letter dated March 29, 2007.

At the public hearing, the petitioner presented revised drawings, dated March 9, 2007, Revised April 3, 2007 and a certified plot plan, dated March 28, 2007 and explained that he is now proposing to change the 1½-story addition to a 1-story addition, extending the footprint by 6'.

Proposed additions will conform to all current setback requirements; however, the property falls short of lot area requirements and has no frontage on a public way.

As a party aggrieved, the petitioner believes that he is entitled to a building permit under the Zoning By-Law, Article VIII, Section 3.3.5.(1) and 3.3.5.(2) and that the Inspector of Building's interpretation of the Section 3.3.5.(2) is incorrect in that she makes a distinction between zero frontage and insufficient frontage. Literal interpretation of the By-Law causes a substantial hardship to the petitioners. They are bound on 2 sides by conservation land and cannot increase their lot area or gain access to frontage on a public way, rendering the property worthless if they cannot make improvements.

The house was built in 1898 as a summer home, in 1976 it was converted to a year round home. In 1984, they obtained a building permit and added a deck and expanded the footprint of the building. In 2003, they were given a variance for a detached garage.

Ed Gurry -10 Fosters Pond Road- wanted to know what kind of foundation will be used for the addition. The Petitioner explained it would be concrete block below frost level.

Jeton asked the Petitioner to meet with his neighbors and show them the plans to make sure there are no objections. Jeton made a Motion to keep the public hearing open to review the previous decisions. Batchelder seconded the Motion and the Board voted unanimously (5-0) to keep the public hearing open.

PETITION NO.: 3963

PETITIONER: Glenn and Laurie Verrette

PREMISES AFFECTED: 46 Porter Road

MEMBERS: Anderson, McDonough, Reilly, Batchelder, Jeton

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A request to withdraw the Petition was made by Mr. and Mrs. Verette. Batchelder made a Motion to withdraw the Petition. Reilly seconded the Motion and the Board voted unanimously (5-0) to allow the withdrawal.

PETITION NO.: 3697
PETITIONER: Bell Atlantic Mobile of Massachusetts Corporated, Ltd.
D/b/a Verizon Wireless
PREMISES AFFECTED: 169R Haggetts Pond Road
MEMBERS: McDonough, Reilly, Batchelder and Jeton (Anderson recused)

A request to continue to May 3, 2007 was received by the Petitioner. Batchelder made a Motion to allow the continuance to May 3, 2007. Reilly seconded the Motion and the Board voted unanimously (4-0) to allow the continuance.

PETITION NO.: 3676
PETITIONER: Pamela and Jeffrey Soltes
PREMISES AFFECTED: 16 Arundel Street
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

Due to the absence of the Petitioners, Anderson made a Motion to disapprove. Batchelder seconded the Motion and the Board voted unanimously (5-0) to disapprove the petition.

PETITION NO.: 3683
PETITIONER: Alexander Iannicelli
PREMISES AFFECTED: 103 Summer Street
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

This is a continued public hearing in which Mr. Iannicelli represented himself in his request for either a variance or special permit for an addition to a single family dwelling. The addition will consist of a garage, bathroom and bedroom which would not meet the setback requirements. The dwelling is a pre-existing and non-conforming and was built in 1925. The dwelling is too close to the front setback, and east side setback. The front porch is now 10 feet from the front lot line and the house is 16 feet from the front lot line. The addition will be 22 feet from the lot line. Mr. Iannicelli has contacted all of the abutters and there are no objections. Jeton asked if there was any other alternative for the addition. Mr. Iannicelli responded that any other alternatives would require reconstructing the entire second floor and it would be too close to the side lot line.

McDonough made a Motion to close the public hearing. Reilly seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then proceeded to deliberate.

McDonough made a Motion to approve the special permit. Batchelder seconded the Motion and the Board voted unanimously (5-0) to approve the special permit.

PETITION NO.: 38685
PETITIONER: Putnam Investments
PREMISES AFFECTED: 7 Shattuck Road
MEMBERS: Anderson, McDonough, Batchelder and Reilly (Jeton recused)

This is a continued public hearing. Putnam Investments was represented by Brian Powers. Putnam Investments seeks to modify the height of an existing sign on the property's frontage on the westerly side of Interstate Route 93 facing the property's frontage on that highway.

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Jetson was recused due to a professional association with the Chairman of the Board for Putnam Investments. Due to a lack of quorum, McDonough made a Motion to continue to next hearing date. Batchelder seconded the Motion and the Board voted unanimously (4-0) to allow the continuance. The Petitioner must request a continuance in writing.

PETITION NO.: 3687
PETITIONER: Glen Butler
PREMISES AFFECTED: 8 Fosters Pond Road
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

This is a public hearing to extend Decision #3605. Attorney Robert Feigin represented the Petitioner. He is requesting to remove an existing dwelling and construct a new dwelling. The Board had granted a variance to demolish the existing cottage and build a single family home. The Petitioner is requesting a 6 month extension to complete the project. Anderson stated that the original decision was stamped March 9, 2006 and the Petitioner would like to extend before the variance expires. Only one extension can be granted. McDonough made a Motion to extend the variance by 6 months. Batchelder seconded the Motion and the Board voted unanimously (5-0) to extend the variance for 6 months.

PETITION NO.: 3689
PETITIONER: Robert A. Medaglio
PREMISES AFFECTED: 1 Newman Hill Drive
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

Mr. Medaglio represented himself in this request for an extension of an existing special permit under Article 8, Section 3.3.1.F.4. The house was built in 1992. Mr. Medaglio took possession of the house in 1993 with his parents and a special permit for an in-law apartment.. Mr. Medaglio presented the Board with an updated letter from his father's physician. Batchelder made a Motion to approve the extension. Reilly seconded the Motion and the Board voted unanimously (5-0) to approve the extension.

PETITION NO.: 3690
PETITIONER: Anthony Capone
PREMISES AFFECTED: 444 South Main Street
MEMBERS: Anderson, McDonough, Batchelder, Reilly and Jeton

Mr. Capone represented himself in this public hearing for a variance for a new home to be built behind the existing dwelling. The older home will then be demolished once the new home is complete. The new dwelling will not meet the side setback requirements nor have sufficient frontage. The Board granted a variance in December for an addition, but now the Petitioner would like to build a new house instead of the addition. Anderson asked if the new house would be further back than the existing home and if the family would be living in the existing home while the new house was being built. The new home will be built behind the existing home and the family will live in the existing home while the new home is being built. The new home meets the setback requirement of 50 feet of frontage. Anderson would like a certified plot plan showing the new home and side yard setbacks, which will only be 17 feet instead of 30 feet. Abutter on the north had no objections to construction. Irene McDougall-446 South Main Street-has concerns about the rise in the water table if a larger home is built on the lot. Stone will be placed under the foundation. The runoff will go onto the street on the other side of the property from Irene McDougall. The land is sloped toward the street.

Kaija Gilmore, Building Inspector, informed the Petitioner that he would be required to provide a notarized statement that the existing dwelling would be taken down within 2 weeks of the Occupancy Permit being

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issued for the new dwelling. Extensive fire precautions would need to be taken due to the closeness of the new home to the existing home. She suggested moving the new home from 8 feet to 10 feet away from the existing home.

The Petitioner must obtain a certified plot plan showing the setbacks and contact an engineer to discuss the runoff and water issues. Explore the possibility of turning the house 90 degrees to eliminate the need for the variance. Jeton made a Motion to continue. Reilly seconded the Motion and the Board voted unanimously (5-0) to continue.

PETITION NO.: 3691
PETITIONER: Peter Kelleher
PREMISES AFFECTED: 60-62 Essex Street
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

Jane Griswold, the Architect for the project represented the Petitioner. This is a public hearing to request a modification to Decision #3644, which allowed the Petitioner to repair the existing 2 family house. The investigation of Unit #2 uncovered substandard construction and repair, no foundation resulting in extensive rot and structural failure. The replacement of the foundation and repair would destroy Unit #1. The existing building will be demolished and the new building will meet all the setback requirements. The new building will be similar to what is there now. The Petitioner is asking to modify the decision to state demolition. Batchelder made a Motion to close the public hearing. Reilly seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then proceeded to deliberate. Batchelder made a Motion to approve the modification of the previous decision in accordance with the plans. Reilly seconded the Motion and it was voted unanimously (5-0) to approve the modification.

PETITION NO.: 3692
PETITIONER: Lori Landesman and John Dalton
PREMISES AFFECTED: 8 Avon Street
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

Attorney Mark Johnson represented the Petitioners in this public hearing. They are requesting a variance from the dimensional requirements of Section 4.1.2 and a special permit. The Petitioners would like to remove the mud porch and replace it with a front porch and repair existing side stairs. The lot has 55 feet of frontage. Both the front and side setbacks do not comply with zoning. The front porch and rebuilding of the side staircase will not substantially be more detrimental than the existing non-conforming structure. Batchelder asked how far the new stairs will extend from the front porch. The Petitioner explained that they would not extend any further than the existing stairs. The Board would like to see them on the plot plan. Jeton made a Motion to continue. Batchelder seconded the Motion and the Board voted unanimously (5-0) to continue.

PETITION NO.: 3694
PETITIONER: Eisai Research Institute of Boston
PREMISES AFFECTED: 4 Corporate Drive
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

The Petitioner is requesting a variance for the addition to the northerly side of the existing facility to accommodate modern office and laboratory configuration needs. The building was constructed in 1988 and Eisai now owns all of the lots in the park. The same addition was just completed on the south side of the facility. The addition would extend the building out by 18 feet. The only other option was to redesign the entire building. There will be a 13% intrusion into the setbacks.

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Kaija Gilmore, Building Inspector, added that the original building did not take into consideration any future expansion. The setback is 100 feet, so a 30 foot intrusion is not a hardship on the neighbor. McDonough asked as to whether the abutter on Shattuck Road was given notice about the hearing. The Petitioner agreed to check with the secretary responsible for mailing the notices. The Board is mainly concerned with the abutter on the side of the construction. Anderson made a Motion to continue to the next hearing for Board members to view the property. Batchelder seconded the Motion and the Board voted unanimously (5-0) to continue.

PETITION NO.: 3696
PETITIONER: Jonathan and Wendy Williams
PREMISES AFFECTED: 20 Arundel Street
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

Jonathan Williams represented himself in this public hearing. The house was built in the 1920s and the lot is non-conforming. The house is L-shaped and the addition would fill in the area between the L. The footprint will not be extending any further than it currently extends. The 2 abutters reviewed the plans and support the addition. Batchelder made a Motion to close the public hearing. Reilly seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board proceeded to deliberate. Batchelder made a Motion to approve the special permit. Reilly seconded the Motion and the Board voted unanimously (5-0) to approve the special permit.

PETITION NO.: 3698
PETITIONER: Gregory and Andrea Stidson
PREMISES AFFECTED: 38 Canterbury Street
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

This is a public hearing to request a special permit for a 16 foot by 26 foot addition. The Petitioners were represented by the contractor, Colin Callahan. The addition is 1 story and would encroach into the setback by 5 feet. Currently, there is an existing breezeway connecting the garage to the house. The breezeway would become the family room. The abutters have no objections. McDonough made a Motion to close the public hearing. Reilly seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then proceeded to deliberate. The house in the rear is set back quite far from the property line, acting like a buffer zone. The addition will only extend past the garage by 6 feet. McDonough made a Motion to approve the special permit. Batchelder seconded the Motion and the Board voted unanimously (5-0) to approve the special permit.

PETITION NO.: 3699
PETITIONER: Brian Colcord
PREMISES AFFECTED: 31 Stinson Road
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

Brian Colcord represented himself in this public hearing. The Petitioner is requesting a variance for an addition that will not meet the setback requirements. The house sits askew on the lot which means the front corner of the addition will be too close to the lot line. Instead of 15 feet from the lot line, the addition will be 13 feet 2 inches from the lot line. The addition will extend the existing garage by 10 feet and enclosing a 3 season porch. McDonough made a Motion to close the public hearing. Batchelder seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then proceeded to deliberate. McDonough made a Motion to approve the variance. Batchelder seconded the Motion and the Board voted unanimously (5-0) to approve the variance.

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PETITION NO.: 3700
PETITIONER: Butler Bank
PREMISES AFFECTED: 16 North Main Street
MEMBERS: Anderson, McDonough, Reilly, Batchelder and Jeton

Attorney Mark Johnson represented Butler Bank in this public hearing. Butler Bank is requesting 3 additional signs in excess of the 3 allowed under the by-law. A 2 sided, illuminated pylon sign will be used instead of a monument sign due to safety concerns. The sign will be 9 feet high to the bottom of the sign, they will need a variance for the total height of 15 feet 6 inches. Boston Café and Butler Bank signs allowed under the by-law will be on the front of the building and 1 sign on Pearson Street. The number of signs and the height of the pylon sign will all need a variance.

Kaija Gilmore, Building Inspector inquired if one of the additional signs is over bank space or tenant space. The sign is over attic space owned by the Bank. McDonough made a Motion to close the public hearing. Batchelder seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then proceeded to deliberate.

Jeton stated that there would be a 50% decrease in the square footage of signage, but a 100% increase in the number of signs. The drive-thru does not really need a sign. McDonough and Batchelder agreed that this was a big increase in the number of signs. Reilly was ambivalent because it was a big increase in the number of signs, but the signs blended well architecturally with the building. McDonough made a Motion to reopen the public hearing. Reilly seconded the Motion and the Board voted unanimously to reopen the public hearing.

Attorney Johnson stated that the variance for the pylon sign was more important than the additional signage and the Bank would be willing to withdraw the request for a variance for the additional signage. The pylon sign is needed for the opening of the bank. Design review preferred the pylon sign to the monument sign. Kaija Gilmore stated that the sign must be lower than 3 feet or higher than 8 feet due to the vehicles entering and exiting the Safety Complex.

Jeton requested that the Inspector of Buildings seek an opinion from the Andover Police Department Safety Officer regarding safety and visibility for emergency vehicles entering and exiting the Public Safety Center's garages.

Public hearing was continued to April 13, 2007 at 8:00am at the Safety Complex conference room. The Meeting Notice to be posted in Town Hall and emailed to Board Members. Jeton made a Motion to continue the public hearing as stated. McDonough seconded the Motion and the Board voted unanimously (5-0) to continue the public hearing.

PETITION NO: 3312
PETITIONER: Windsor Green
PREMISES AFFECTED: 311 Lowell Street
MEMBERS: Anderson, McDonough, Batchelder, Reilly and Jeton

Attorney Robert Lavoie represented the Criterion Andover Apartment Limited Partnership in this request for an insignificant change to the signage for this project. The change would consist of 3 masonry panels at 45 degree angles, single-sided with one tri-plex set of panels located on each side of the driveway. The original Comprehensive Permit issued allowed a 30 foot pylon, two-sided, illuminated sign not to exceed 24 square feet. Anderson clarified that Windsor Green is allowed 2 signs and instead of a back to back sign, there is 1 sign on each side of the road. The signs for Rolling Green and Boston Sports Club are not included in Windsor Green. The Board is only to determine if the Windsor Green signs are fine not being back to back and if this is only a minor modification. If the Board does not act within 20 days, it will be

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automatically approved as a minor modification. If the Board decides this is a major change to an approved project, then it goes to the public hearing process.

Larry Bruce – 25 Chandler Street – asked how that many signs could be put up without a variance. Again, every business is entitled to a sign, but we are only addressing the Windsor Green signs not being back to back.

Kaija Gilmore, Building Inspector, discussed the signage and recommended that the sign be 30 feet in the air or on sight level on the busy roadway. She and Officer Cronin believe that the entrance monument will be safer than a 30 foot high pylon sign.

Jeton made a Motion that the signage for Windsor Green only presents a minor modification. Batchelder seconded the Motion and the Board voted unanimously (5-0) in favor of a minor modification.

Batchelder made a Motion to approve the minutes from March 1, 2007 meeting.

Meeting adjourned at 10:10pm